

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC000003

**Ex Parte, In re: Investigation of the
appropriate level of intrastate access
service prices**

CERTIFICATION OF RULING TO THE COMMISSION

August 17, 2000

On August 8, 2000, the Staff of the State Corporation Commission ("Staff") and Verizon Virginia Inc., formerly Bell Atlantic – Virginia, Inc. ("Verizon Virginia"), filed a Motion to Approve Settlement of Case in the captioned proceeding. Therein Staff and Verizon Virginia advise that they have reached agreement on issues in this case that involve Verizon Virginia. They seek review of the Settlement Agreement attached to the Motion in an expeditious fashion so that if the switched access rate decreases and other changes proposed by Staff and Verizon Virginia and as set forth in the Agreement are approved, they can be implemented beginning January 1, 2001. Staff and Verizon Virginia request that consideration of the Settlement Agreement be separated from the remainder of the case; that Verizon Virginia be removed from involvement in the ongoing proceedings involving the access services of other local exchange companies; and that consideration of the settlement be transferred back to the full Commission.

By Ruling later that day, the parties were invited to respond on or before August 14, 2000, to the procedure recommended by Staff and Verizon Virginia in the Motion. The Ruling advised the parties that they need not address the merits of the proposed settlement in these responses, and that a later opportunity would be provided to offer comment on the settlement itself.

On August 14, 2000, the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel") and AT&T Communications of Virginia, Inc. ("AT&T") filed responses. The Consumer Counsel suggests that the proposed settlement could proceed before either the full Commission or the hearing examiner so long as sufficient procedures are adopted to provide all parties with an opportunity to present their positions on the issues. The Consumer Counsel recommended a procedure similar to that implemented in 1998 in the cases docketed to consider an annual informational filing and an alternative regulatory plan for Virginia Electric and Power Company ("Virginia Power").¹ Therein

¹ *Application of Virginia Electric and Power Company*, Case No. PUE960036, and *Commonwealth of Virginia at the relation of the State Corporation Commission Ex Parte: Investigation of Electric Utility Industry Restructuring – Virginia Electric and Power Company*, Case No. PUE960296, Order on Proposed Stipulation (June 17, 1998).

several, but not all, parties to the case offered a proposed stipulation. The Commission provided the Staff and parties an opportunity to file comments on the proposed stipulation, reply to any comments, and appear at a hearing to offer evidence and comments on the stipulation, identify issues not resolved by the stipulation and recommend procedures for resolving such issues.²

AT&T does not object to separating consideration of the settlement from the remainder of the case and transferring that consideration back to the Commission. AT&T favors a result that significantly reduces access charges and avoids time-consuming and costly litigation. AT&T, however, seeks clarification that Verizon Virginia would continue as a party to any consideration of the settlement or related issues, noting that the "record would be compromised if Verizon were to drop out as a party prior to a final Commission decision regarding the proposed settlement."³ AT&T also seeks clarification that any action to remove Verizon Virginia from further participation in this case does not end its obligation to participate if the settlement fails for any reason.

The Commission issued an order establishing this investigation on the appropriate level of intrastate access service prices for four local exchange companies ("LECs"), including Verizon Virginia, on February 2, 2000.⁴ Therein, pursuant to Virginia Code § 12.1-31 and Rule 7:1 of the Commission's Rules of Practice and Procedure, 5 VAC 5-10-10 *et seq.*, the Commission initiated a procedural schedule, set a public hearing, and appointed a hearing examiner to conduct all further proceedings in this matter.⁵

Staff and Verizon Virginia now ask for separation of the consideration of the Settlement Agreement from consideration of the access service prices of the remaining three LECs, Verizon South, formerly GTE South Incorporated; United Telephone-Southeast, Inc. ("United"); and Central Telephone Company of Virginia ("Centel").

In the interest of avoiding protracted litigation, Verizon Virginia agrees in the Settlement Agreement to reduce its switched access rates annually over each of the next five years. The cumulative reduction in switched access revenues over that five-year period is estimated at \$270 million dollars.⁶ Certain long distance companies, including AT&T, have promised to pass on those decreases to their long distance customers, therefore the settlement should result in lower long distance rates to Virginia customers.⁷ Although Verizon Virginia continues to assert that it has a legal right to rate increases for other services to offset any reduced revenue resulting from lower access prices, it does not seek such offsets in the Settlement Agreement.⁸ Finally, Verizon Virginia has committed to file the tariff changes contemplated by the Settlement Agreement by

²Id.

³AT&T Response at 2.

⁴Order Establishing Investigation, Case No. PUC000003 (February 2, 2000).

⁵Id. at 8.

⁶Motion at 2, Attachment A.

⁷Settlement Agreement at 2.

⁸Id.

December 1, 2000, for implementation January 1, 2001, if the settlement can be timely reviewed and is approved.⁹

Here there is no opposition to separating and expediting consideration of the settlement proposed by Staff and Verizon Virginia. Separate consideration of the settlement focuses the issues that must be addressed on one company, allows for resolution more quickly, and is therefore reasonable. Further, Verizon Virginia need not be a party to consideration of access prices for United, Centel or Verizon South, but it is clearly necessary to consideration of the Settlement Agreement and to consideration of its own access prices. The Commission, however, should determine the most appropriate procedure. I will certify the pending Motion to the Commission for determination, and recommend the Commission adopt a procedure similar to that offered parties to the 1998 Virginia Power cases cited by the Consumer Counsel and referenced above.

I find that it is in the public interest to separate consideration of the settlement, and to certify the pending Motion back to the Commission. The Motion and Responses thereto are attached to this Certification. Accordingly,

I RECOMMEND that the Commission separate consideration of the Settlement Agreement from the ongoing proceedings, and establish a process for considering comment on the merits of the changes set forth therein and any related issues.

Deborah V. Ellenberg
Chief Hearing Examiner

⁹Motion at 4.

BEFORE THE
STATE CORPORATION COMMISSION
OF VIRGINIA

<u>Ex Parte</u> , In re: Investigation of)	
the appropriate level of intrastate)	CASE NO. PUC000003
access services prices)	

MOTION TO APPROVE SETTLEMENT OF CASE

The State Corporation Commission Staff ("Staff") and Verizon Virginia Inc. ("Verizon Virginia"), formerly Bell Atlantic – Virginia, Inc., recognizing that the issues in this matter are contentious and that resolution of them will be time-consuming, will require the continued commitment of significant amounts of regulatory and corporate resources, and will involve extensive litigation (perhaps including an appeal to the Virginia Supreme Court), have met periodically during the past several weeks for the purposes of determining whether the matters can reasonably be settled. These two parties have reached agreement and a copy of the settlement is attached to this Motion. The Commission is requested to approve the settlement as final resolution of the issues in this case that involve Verizon Virginia.

Review of the settlement should be concluded in an expeditious fashion so that the switched access rate decreases and other changes called for by the agreement could be implemented beginning January 1, 2001. To

accomplish this review, Verizon Virginia and the Staff request that consideration of this settlement be separated from the remainder of this case, that Verizon Virginia be removed from involvement in the on-going proceedings involving the access services of other local exchange companies, and that consideration of the settlement be transferred back to the full Commission. Parties to this case should then be given an opportunity to comment on the settlement. Because the settlement agreement provides that Verizon Virginia will file new switched access tariffs no later than December 1, 2000, to be effective January 1, 2001, it is respectfully requested that this schedule be taken into account in determining the process for approving the settlement.

With this settlement, Verizon Virginia agrees to reduce its switched access rates annually over each of the next five years. In doing so, Verizon Virginia will reduce its switched access revenues cumulatively over the five year period by an estimated **270 million** dollars.¹ Certain long distance companies have promised to pass on decreases in access rates to their long distance customers. This settlement agreement should, upon those carriers' responsible actions, thereby be in the public interest by resulting in lower long distance rates to Virginia consumers.

Wherefore, Verizon Virginia and the Staff respectfully request that consideration of this settlement be separated from the other proceedings in this

¹ Attachment A, entitled Estimated Impact of Access Rate Reductions as Contained in Settlement, contains material that is competitively sensitive and proprietary to Verizon Virginia. The Attachment will be made available to those parties who have executed an agreement to adhere to the protective ruling entered by the Hearing Examiner on May 26, 2000 in this case.

case, that the Commission itself take over review of the agreement, that the Commission establish a process for receiving comments on the settlement agreement from interested parties in this case and that review of the agreement be concluded in a timely fashion so that Verizon Virginia might file by December 1, 2000, the tariff changes contemplated by the agreement.

Respectfully submitted,

Lydia R. Pulley
Attorney for

Verizon Virginia Inc.
600 East Main Street
Richmond, VA 23219

William H. Chambliss
General Counsel for

State Corporation Commission
1300 East Main Street
Richmond, VA 23219

Dated _____

**Settlement Agreement
Case No. PUC000003
Between
Verizon Virginia Inc.
And
The Staff of the State Corporation Commission**

WHEREAS, the Virginia State Corporation Commission has instituted Case No. PUC000003 to investigate the costs incurred by Verizon Virginia Inc. ("Verizon Virginia"), formerly Bell Atlantic – Virginia, Inc., and other named local exchange companies in providing intrastate access services and to examine whether prices for access services should remain at current levels; and

WHEREAS, Verizon Virginia has filed in this case the costs it has determined for its switched and special access services, and the Staff of the State Corporation Commission ("Staff") has reviewed that cost information; and

WHEREAS, the Commission has previously determined that the costs of service are but one factor to be considered in pricing access services; and

WHEREAS, Verizon Virginia takes the position that its prices for access services should not be reduced; and

WHEREAS, Verizon Virginia takes the legal position that any order requiring it to reduce its revenues from access services must also allow it to raise the prices for other services to offset the lost revenue; and

WHEREAS, the Staff does not agree with Verizon Virginia's legal position, but recognizes that such claim might be the subject of protracted litigation; and

WHEREAS, the Staff believes that it would be in the public interest for Verizon Virginia's prices for switched access to be reduced and for these reductions to flow through to customers for long distance service through reductions in intrastate long distance prices; and

WHEREAS, the Staff and Verizon Virginia acknowledge that a settlement on these issues may avoid protracted, time-consuming and expensive litigation;

NOW THEREFORE, in consideration of the foregoing, the Staff and Verizon Virginia agree as follows:

1. Staff and Verizon Virginia will jointly present the terms of this agreement in Case No. PUC000003, and each party will support the settlement and urge its adoption by the Commission as a fair and reasonable resolution of all issues pending in this case and in Case

No. PUC960021. In addition, this settlement resolves, as between the Staff and Verizon Virginia, any open issues in Case Nos. PUC990043, PUC980057 and PUC970016. The Commission has closed these three cases, although the Commission suggested that any issues in those cases could be considered in Case No. PUC000003. This settlement resolves, as between the Staff and Verizon Virginia, any such transferred issues. The Staff and Verizon Virginia further believe that adoption of the terms of this agreement would represent a fair resolution of all issues in each of those pending dockets.

2. The specific changes in switched access prices agreed to by Verizon Virginia and the Staff are outlined in the Appendix to this agreement. The benefits of this agreement would flow from a reduction in Verizon Virginia's prices for switched access service. Certain long distance companies doing business in Virginia, including AT&T, have promised to pass on these decreases to their long distance customers. This agreement should, upon those carriers' responsible actions, thereby result in lower long distance rates to customers. Moreover, Verizon Virginia has agreed not to seek price increases for other services in order to offset any reduction in its revenues coming from the reduced access service prices described in this Settlement Agreement. Nothing in this agreement changes the pricing flexibility allowed Verizon Virginia under its Plan for Alternative Regulation.
3. A subsidiary benefit of adoption of this agreement will be to resolve what could potentially be burdensome and expensive litigation and appeals, thereby saving costs for the parties to the case and the Commonwealth.
4. It is expressly understood and agreed that, as between the Staff and Verizon Virginia, this agreement constitutes a negotiated resolution of this case and Case No. PUC960021, and any issues transferred from Case Nos. PUC990043, PUC980057 and PUC970016, with the bargained-for concessions supporting and being consideration only for the conditions contained herein.
5. This agreement is subject to all applicable administrative and common law treatments of settlement offers and negotiations. As between the Staff and Verizon Virginia, this agreement resolves, with prejudice, the issues arising in this case and Case No. PUC960021, and any issues transferred from Case Nos. PUC990043, PUC980057 and PUC970016, and precludes the parties hereto from contesting the positions taken herein with respect to any issue encompassed within this agreement during any subsequent litigation; provided, however, that this agreement is made without admission against or prejudice to any factual or legal positions that either Verizon Virginia or the Staff

may assert (i) in the event that the Commission does not issue a final, non-appealable Order approving this settlement agreement without modification or (ii) in other proceedings before the Commission or other forums as long as such positions are not in derogation of this settlement agreement. This agreement shall not constitute or be cited as controlling precedent against either the Staff or Verizon Virginia or its affiliated local telephone companies in any other state or federal proceedings. Nothing in this agreement changes the Staff's ongoing responsibilities or obligations to the Commission under its rules.

6. This settlement is expressly conditioned upon the Commission's approval of all of the specific terms and conditions contained herein without modification. If the Commission should fail to grant such approval, or should adversely modify any material term or condition herein, either party hereto may withdraw, in whole or part, from this agreement, upon written notice filed within 10 days of service of the Commission's Order. In the event of any such withdrawal, the parties hereto shall have all legal rights they may have waived by entering into this agreement.

NOW THEREFORE, Verizon Virginia and the Staff, intending to be legally bound, and certifying that undersigned have full authority to act on behalf of their respective parties, hereby affix their signatures to this settlement agreement.

For The Staff of the State
Corporation Commission

For Verizon Virginia Inc.

Dated _____

**APPENDIX
TO
SETTLEMENT AGREEMENT
CASE NO. PUC000003**

Verizon Virginia Inc. ("Verizon Virginia") agrees that it will take the following actions to modify the rates for its intrastate, switched access services:

I. The Changes to Be Effective January 1, 2001.

On or before December 1, 2000, Verizon Virginia will file with the State Corporation Commission revised intrastate switched access tariffs to be effective January 1, 2001, which intend to accomplish two basic goals: first, the rates will be restructured on a revenue neutral basis to align the rate structure more closely to that employed in the Company's interstate switched access tariffs; and, second, the Company will concurrently begin the first of five annual reductions in the rate for the Carrier Common Line Access Service Charge (the "CCLC") designed to freeze the annual revenue produced by the CCLC on January 1, 2005, at \$40 million for the year 2005. These changes will be accomplished as follows:

A. The Rate Restructuring.

Using the most recent historical twelve months of demand and revenue data for its switched access services available prior to December 1, 2000, Verizon Virginia will transfer recovery of the revenue produced in this same twelve month period by the usage-based Residual Interconnection Charge (usually called the "RIC") to the flat-rated CCLC and will eliminate the RIC from the tariff. At the same time, Verizon Virginia will introduce into the tariff additional pricing elements for Dedicated Trunk Ports at the tandem and end offices, Shared End Office Trunk Ports, end office termination of common or shared traffic routed from the tandem and Tandem Multiplexing for tandem transport. As an additional part of the restructuring, the existing rates for tandem switching and local switching will be reduced to maintain revenue neutrality. The resulting local switching rate would then be further reduced to a rate of \$0.01 per minute of use ("MOU"). This reduction in revenue will be recovered from the CCLC.

As described above, the restructured CCLC rate will be designed to recover the revenues produced by the existing CCLC in the historic period, the revenues produced by the RIC in the historic period, and the difference between Verizon Virginia's Local Switching revenues during the historic period and what it would have received had its Local Switching rate been reduced to \$ 0.01/MOU during the historic period.

B. The Reduction in the CCLC.

On or before December 1, 2000, Verizon Virginia will file tariffs with revised switched access rates to be effective January 1, 2001, that will modify the CCLC so that Verizon Virginia will collect \$7,791,667 in revenues from the CCLC per month. This freezes Verizon Virginia's CCLC revenue at \$93.5 million for the year. This monthly charge will be divided among switched access customers according to their minutes of use market share. For example, if total local switching usage were 400,000,000 minutes for December 2000 and an individual switched access customer used 50,000,000 of these minutes in December 2000 the customer's January 2001 CCLC payment to Verizon Virginia would be calculated as follows:

$$(50,000,000 / 400,000,000) * \$7,791,667 = \$973,958.$$

II. The Changes To Be Effective in 2002 through 2005.

A. The Changes to be Effective January 1, 2002.

On or before December 1, 2001, Verizon Virginia will file tariffs with revised switched access rates to be effective January 1, 2002, that will modify the CCLC so that Verizon Virginia will collect \$6,558,333 in revenues from the CCLC per month. This freezes Verizon Virginia's CCLC revenue at \$78.7 million for the year. This monthly charge will be divided among switched access customers according to their minutes of use market share as described in paragraph I.B above.

B. The Changes to be Effective January 1, 2003.

On or before December 1, 2002, Verizon Virginia will file tariffs with revised switched access rates to be effective January 1, 2003, that will modify the CCLC so that Verizon Virginia will collect \$5,475,000 in revenues from the CCLC per month. This freezes Verizon Virginia's CCLC revenue at \$65.7 million for the year. This monthly

charge will be divided among switched access customers according to their minutes of use market share as described in paragraph I.B above.

C. The Changes to be Effective January 1, 2004.

On or before December 1, 2003, Verizon Virginia will file tariffs with revised switched access rates to be effective January 1, 2004, that will modify the CCLC so that Verizon Virginia will collect \$4,358,333 in revenues from the CCLC per month. This freezes Verizon Virginia's CCLC revenue at \$52.3 million for the year. This monthly charge will be divided among switched access customers according to their minutes of use market share as described in paragraph I.B above.

D. The Changes to be Effective January 1, 2005.

On or before December 1, 2004, Verizon Virginia will file tariffs with revised switched access rates to be effective January 1, 2005, that will modify the CCLC so that Verizon Virginia will collect \$3,333,333 in revenues from the CCLC per month. This freezes Verizon Virginia's CCLC revenue at \$40 million per year. This monthly charge will be divided among switched access customers according to their minutes of use market share. For example, if total local switching usage were 400,000,000 minutes for December 2004 and an individual switched access customer used 50,000,000 of these minutes in December 2004 the customer's January 2005 CCLC payment to Verizon Virginia would be calculated as follows:

$$(50,000,000 / 400,000,000) * \$3,333,333 = \$416,667.$$